

FILED

JAN 12 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEE THOMAS BJORN

Petitioner,

vs.

D. ADAMS, Warden,

Respondent.

No. C 09-2630 JSW (PR)

**ORDER DISMISSING UNEXHAUSTED
CLAIMS; TO SHOW CAUSE**

Petitioner, a prisoner of the State of California, currently incarcerated at Corcoran State Prison in Corcoran, California, filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state conviction. Respondent's motion to dismiss the petition as mixed was granted. Petitioner was ordered to elect whether to delete the unexhausted claims and proceed with the exhausted claims, or to request a stay of this case while he exhausted his unexhausted claims in the state courts. Petitioner has filed a notice that he is electing the former course of action. Accordingly, the unexhausted claims, claims one through five and claim eight, are DISMISSED.

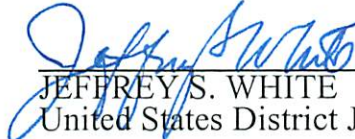
Respondent shall file with the Court and serve on Petitioner, within **ninety** days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted on the basis of claims six and seven in the petition. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues

1 presented by the petition. If Petitioner wishes to respond to the answer, he shall do so by
2 filing a traverse with the Court and serving it on Respondent within **thirty (30)** days of
3 the date the answer is filed.

4 Petitioner's request for appointment of counsel is DENIED for want of
5 extraordinary circumstances or the need for an evidentiary hearing at this time.

6 IT IS SO ORDERED.

7 DATED: JAN 12 2011

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9 JEFFREY S. WHITE
10 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LEE T BJORN,
Plaintiff,

Case Number: CV09-02630 JSW

CERTIFICATE OF SERVICE

v.

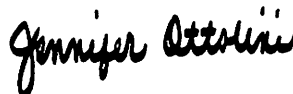
WARDEN et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 12, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lee Thomas Bjorn Prisoner Id V-50565
P.O. Box 368
Chino, CA 91708

Dated: January 12, 2011



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk